

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2006-79-T

August 9, 2006

IN RE:

Application of Mark Toppi d/b/a)
American Family Moving & Storage)
For a Class E (HHG) Certificate of)
Public Convenience and Necessity)
For Operation of Motor Vehicle Carrier)
)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement Agreement”) is made by and among the Office of Regulatory Staff (“ORS”) and Mark Toppi d/b/a American Family Moving & Storage (“American Family” or “the Company”) (collectively referred to as the “Parties” or sometimes individually as “Party”);

WHEREAS, on March 14, 2006, American Family filed its application requesting a Class E Certificate of Public Convenience and Necessity to transport household goods commodities as defined in 26 Code Regs. 103-210(1) between points and places in Charleston, Berkeley, and Dorchester Counties in accordance with the provisions of S.C. Code Ann. § 58-23-10, et seq. (“Application”);

WHEREAS, on March 22, 2006, the Public Service Commission of South Carolina (“Commission”) issued a transmittal letter requiring American Family to publish a Notice of Filing, one day, in newspapers of general circulation in the State in the desired service area no later than April 3, 2006, and to provide an Original Publisher’s Affidavit to the Commission no later than April 21, 2006;

WHEREAS, on April 17, 2006, American Family filed an Original Publisher's Affidavit with the Commission demonstrating the Notice of Filing was published on March 28, 2006, in The Post and Courier, a daily newspaper of general circulation published in Charleston, South Carolina;

WHEREAS, on May 3, 2006, the Commission issued a Notice of Hearing in the above captioned matter scheduled to be heard before the Commission on August 16, 2006;

WHEREAS, on April 5, 2006, American Family filed with the Commission a Safety Compliance Review conducted by the South Carolina State Transport Police;

WHEREAS, the purpose of this proceeding is to review the Application filed by American Family and its request for a Class E Certificate of Public Convenience and Necessity;

WHEREAS, by Order No. 1999-654 dated September 15, 1999 (Docket No. 1999-376-T), the Commission approved a waiver of the shipper witness requirement for those applicants seeking authority in three counties or less in order to show that the public convenience and necessity are not already being served in the requested service area;

WHEREAS, if the Commission grants the request of the Applicant, ORS will conduct a facility visit and inspect the vehicle(s) intended to be used to transport household goods prior to issuing the certificate;

WHEREAS, as a result of its review, ORS has determined a) American Family intends to operate as a Motor Vehicle Carrier of Household Goods between points and places in Charleston, Berkeley, and Dorchester Counties; b) American Family plans to lease sufficient vehicle(s) to provide the services applied for; c) American Family has agreed to provide services that meet service standards required by the Commission; d) the Company received a satisfactory safety rating from the South Carolina State Transport Police; e) American Family has certified that it currently has no outstanding judgments against it; f) American Family has certified that it is familiar with all statutes and regulations, including safety operations in South Carolina;

WHEREAS, in the event that the Commission grants American Family's Application, the Company will file with ORS the proper insurance, safety rating, and any other information required of it under South Carolina law;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions;

- 1) American Family certifies that the information contained in its Application is true and correct;
- 2) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. ORS also agrees not to cross-examine the witness(es) offered by American Family;
- 3) American Family has obtained a safety rating of "satisfactory" from the South Carolina State Transport Police as required by 26 S.C. Code Ann. 103-133(a) (Supp. 2005);
- 4) American Family has no outstanding judgments pending against the Company;
- 5) American Family is familiar with all statutes, regulations, including safety operations in South Carolina governing for-hire motor carrier services, and agrees to operate in compliance with these statutes and regulations;
- 6) American Family will lease on a long-term basis necessary equipment to transport household goods commodities, as defined in 26 S.C. Code Ann. Reg. 103-210(1) (Supp. 2005), between points and places in Charleston, Berkeley, and Dorchester Counties;
- 7) American Family will obtain property and liability insurance that will meet the minimum requirements set by the Commission under 26 S.C. Code Ann. Reg. 103-172 (Supp. 2005);

8) American Family will join the South Carolina Tariff Bureau, Inc. (“Tariff Bureau”) and agrees to abide by all the terms and conditions contained in the Tariff Bureau’s tariff, which is on file with and approved by the Commission;

9) American Family has submitted a certificate of insurance for cargo which meets the minimum requirements set by the Commission under 26 S.C. Code Ann. Reg. 103-173 (Supp. 2005);

10) The Parties further agree that, subject to the satisfaction of Paragraphs 6, 7, and 8, the Company is fit, willing and able to appropriately transport household goods commodities between points and places in Charleston, Berkeley, and Dorchester Counties. Accordingly, the Parties agree that the Company should be granted a Certificate of Public Convenience and Necessity to transport household goods commodities, as defined in 26 Code Regs. 103-210(1), between points and places in Charleston, Berkeley, and Dorchester Counties in accordance with the provisions of S.C. Code Ann. § 58-23-10;

11) The Company agrees to file necessary financial information with the Commission and ORS for annual reporting and/or gross receipts reporting;

12) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B) (added by Act 175). S.C. Code § 58-4-10(B)(1) through (3) reads in part as follows:

... ‘public interest’ means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State’s public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

13) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and to take no action inconsistent with its adoption by the Commission. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

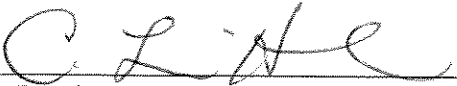
14) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair, or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement without penalty or obligation.

15) This Settlement Agreement shall be interpreted according to South Carolina law.

16) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.


WE AGREE:

Representing the Office of Regulatory Staff


C. Lessie Hammonds, Esquire
Office of Regulatory Staff
Post Office Box 11263
1441 Main Street (Suite 300)
Columbia, SC 29211
Phone: (803) 737-0800
Fax: (803) 737-0895
E-mail: lhammon@regstaff.sc.gov

WE AGREE:

Representing Mark Toppi d/b/a American Family Moving & Storage


K. Chad Burgess, Esquire
Willoughby and Hoefer, P.A.
Post Office Box 8416
Columbia, South Carolina 29202
Phone: (803) 252-3300
Fax: (803) 771-2410
Email: cburgess@willoughbyhoefer.com

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2006-79-T

IN RE:

Application of Mark Toppi d/b/a American Moving)	CERTIFICATE OF
And Storage for a Class E Certificate of Public)	SERVICE
Convenience and Necessity for Operation of a Motor)	
Vehicle	

This is to certify that I, Pamela J. McMullan, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **SETTLEMENT AGREEMENT** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Mark Toppi
American Family Moving and Storage
8577 Kennestone Lane
Charleston, SC 29420

K. Chad Burgess, Esquire
Mitchell M. Willoughby, Esquire
Willoughby & Hoefer, P.A.
Post Office Box 8416
Columbia, SC, 29202



Pamela J. McMullan

August 9, 2006
Columbia, South Carolina